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SUBJECT: SERBIAN COURT CONVICTS FOUR FOR SREBRENICA-RELATED WAR
CRIMES

1. (sbu) Summary: On April 10, the Belgrade Special War Crimes Court handed down convictions to four former members of the "Scorpions" paramilitary unit for their roles in the execution of Muslim civilians in Trnovo, Bosnia, on July 17, 1995. Chief war crimes prosecutor Vladimir Vukcevic said he was partially pleased with the verdict, which he said proved the commission of war crimes in Srebrenica. Victims' families, local war crimes NGO's, and even the prosecutor and President Tadic, though, voiced disappointment over, inter alia, the leniency of the sentencing given the compelling, graphic visual evidence of the crimes (a videotape prominently aired in 2005). While it is significant that a Serbian court has once again convicted Serbs on war crimes charges, much more needs to be done for Serbia to deal fully with the legacy of the crimes of the 1990's. End summary.

2. (sbu) On April 10, the Belgrade special court for war crimes handed down convictions to four members of a paramilitary unit known as the "Scorpions" for their role in the execution-style slaying of bound Muslim civilians in Trnovo, Bosnia, on July 17, 1995. The genesis of the conviction was a graphic video taken by Scorpion members of the executions that clearly showed the identity of the perpetrators and the incontrovertible inhumanity of their actions. The video was played fairly widely on Serbian television in July 2005, prompting the government to arrest five men and begin a court case against them. The two ringleaders of the group in the video, Scorpion commander Slobodan "Boca" Medic and Branislav Medic, each received the maximum possible sentence of 20 years in prison (maximum sentencing being defined as the maximum possible at the time the crimes were committed - Serbia's criminal code did not increase maximum sentencing to 40 years until 2002, well after these crimes were committed). Others involved in the crime were given reduced sentences of 13 and five years, while one defendant, Aleksander Vukov, was actually acquitted on the grounds that the trial chamber found no evidence to support the claim (he was not shown on the video, but the prosecution claims to have eyewitnesses putting him in the unit's command bunker in the hills surrounding the "killing field.").

3. (sbu) Serbia's chief war crimes prosecutor, Vladimir Vukcevic, told local media he was "partially satisfied" by the result of the trial, noting that it represented an acknowledgement in Serbia that war crimes were committed in Srebrenica. He expressed disappointment, though, at the relative leniency of some of the sentences, and vowed to appeal the cases of those who received less than the maximum sentence. He also promised to continue the prosecution of the case, which included tracking down another three co-defendants currently believed to be living abroad (a ninth co-defendant, Slobodan Davidovic, was convicted in Zagreb in December, 2005 and is serving a 15-year sentence in Croatia). President Tadic also voiced disappointment over the sentencing, noting that the maximum sentences should have been handed down across the board.

4. (sbu) Critics of the court and the process have been even more vocal. The families of the victims, on site for the verdict and the

sentencing, condemned the leniency of the verdicts, claiming that no punishment would be sufficient for the crimes committed. The NGO community was similarly incensed. Natasa Kandic, internationally respected director of the Humanitarian Law Center, a Belgrade-based war crimes watchdog organization, decried not so much the sentencing as what she saw as a deliberate attempt to de-link the actions of the Scorpions from support she says the unit received both from the Serbian armed forces (VJ) and the State Security service (DB). She has complained that the investigation did not continue higher up the chain of command (i.e., past Medic to Belgrade) from whence she says the instructions ultimately came. She cites as evidence of the Scorpions' ties to the VJ, inter alia, their military insignia and the fact that their official correspondence was directed to a VJ postal address (the Serbian equivalent of an APO/FPO address). Her criticisms are more deeply felt following the ICJ ruling in the Bosnia v. FRY case, which many civil society leaders in Serbia thought dealt a grave injustice by, essentially, absolving Belgrade's leadership of complicity and support for ethnic cleansing in Bosnia. Moreover, a lawyer for the local Helsinki Committee who observed the trial noted that the judge in the case used her bench for political grandstanding, categorizing the conflicts as, e.g., "the civil war in Bosnia" and stating that "Serbia was not at war" - both common Milosevic-era shibboleths.

15. (sbu) Ironically - or perhaps pointedly - on the same day, local media also reported that a first-instance conviction of Sasa Radak for war crimes in Ovcara (near Vukovar, Croatia) had been overturned by the Serbian Supreme Court and returned for retrial. It was the second Ovcara-related case overturned by the Supreme Court. The third, considered to be minor since it involved only one ailing defendant, was upheld in the second instance and is now in full legal force. Aside from that conviction, the only other prosecution from the War Crimes Court that has been upheld is the conviction of Anton Lekaj, an ethnic Albanian convicted of war crimes against Serbs. Two other domestic war crimes cases overturned and later upheld by the Supreme Court - Podujevo and

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Sjeverin - were prosecuted in the District Court vice the War Crimes Court.

16. (sbu) Comment: We should not underestimate the significance of a Serbian court again convicting Serbs on charges of war crimes. This decision follows other first-instance convictions of Serbs in the Ovcara, Podujevo, and Sjeverin cases. While the sentences might seem lenient by American standards, three of the defendants in the Scorpions case received the harshest sentence available under Serbian law. Moreover, this conviction establishes for the first time in a Serbian court that Serbians carried out war crimes against civilians of Srebrenica. This is important, given that polls regularly show that only one-third of Serbians believe that Serb forces killed large numbers of Muslim prisoners at Srebrenica -- despite the airing of the Scorpions videotape.

17. (sbu) While an important step forward, much more remains to be done for Serbia to deal fully with the legacy of the crimes of the 1990's. Most of the progress accomplished so far has been due to the efforts of the prosecutors, investigators, and judges attached to the Special War Crimes Court itself. The appeals court -- in this case the Serbian Supreme Court -- has been generally unreceptive to the first-instance convictions. In every significant first-instance war crimes conviction so far, the Supreme Court has overturned the conviction upon first review (although it later upheld at least two convictions following re-trials). The laxity of the Serbian appeals process (even the most minute technical errors can be cause for an overturning, if a judge so chooses, even if they have no bearing on the outcome of the case), coupled with a widespread belief that the Supreme Court is still packed with Milosevite judges, will complicate the efforts of those Serbs committed to a vigorous pursuit of justice for the victims of Serb-instigated ethnic cleansing in the 1990's.

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